Remarks

This Amendment is in response to the Office Action dated **April 26, 2011**. The Office Action objected to the specification as failing to provide proper antecedent basis for the claimed subject matter. Claim 1 was rejected under 35 U.S.C. § 112, sixth paragraph. Claim 22 was rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 1-2, 4-12 and 14-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hearns et al (US 2005/0091522) in view of Wissenbach et al (US 2004/0243772) and further in view of Fong (US 2005/0050175).

With this response, claims 1, 21 and 22 have been amended. The specification has also been amended. Claims 1-2, 4-12 and 14-22 are presented for reconsideration and allowance.

Specification

The Office Action objected to the specification for failing to provide proper antecedent basis for claim 22. Claim 22 has been amended to recite "a computer <u>readable</u> medium," rather than "a computer <u>usable</u> medium." Applicants assert that paragraph 136 properly supports this amendment. Thus, the objection is believed to be overcome.

Claim Rejections – 35 U.S.C. § 112

Claim 1 was rejected for the use of "database means" under 35 U.S.C. § 112, sixth paragraph. Claim 1 has been amended to instead recite "a database." Thus, this rejection is believed to be overcome.

Claim Rejections – 35 U.S.C. § 101

Claim 22 was rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claim 22 has been amended to recite "a <u>non-transitory </u>computer readable medium." Non-transitory computer readable media comprise all computer readable media, with the sole exception being a transitory, propagating signal.

According to the memo from Director David Kappos entitled "Subject Matter Eligibility of Computer Readable Media," amending the claim to recite a non-transitory computer readable medium should not be considered new matter.

"A claim drawn to such a computer readable medium that covers both transitory and non-transitory embodiments may be amended to narrow the claim to cover only statutory embodiments to avoid a rejection under 35 U.S.C. § 101 by adding the limitation 'non-transitory' to the claim. [...]. Such an amendment would typically not raise the issue of new matter, even when the specification is silent because the broadest reasonable interpretation relies on the ordinary and customary meaning that includes signals *per se*. The limited situations in which such an amendment could raise issues of new matter occur, for example, when the specification does not support a non-transitory embodiment because a signal *per se* is the only viable embodiment such that the amended claim is impermissibly broadened beyond the supporting disclosure."[1] (citations omitted).

Applicants submit that the amendment to recite "a non-transitory computer readable medium" is not new matter in light of the specification. The specification does not present a signal as the only viable embodiment, and thus the amended claim is not impermissibly broadened beyond the supporting disclosure.

The specification has been amended to delete reference to the computer readable media including transmission media, as suggested in the Office Action at page 3.

The rejection is believed to be overcome by this amendment.

Claim Rejections – 35 U.S.C. § 103

Claims 1-2, 4-12 and 14-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hearns in view of Wissenbach and further in view of Fong.

"[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.'" MPEP § 2142 (citing *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 418, 82 USPQ2d 1385, 1396 (2007)). "All words in a claim must be considered in judging the patentability of that claim against the prior art." MPEP § 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)).

Independent claims 1, 11, and 21-22 each recite in part:

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[1] Memorandum from David J. Kappos, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent Office, "Subject Matter Eligibility of Computer Readable Media" (Jan. 26, 2010)(available at http://www.uspto.gov/patents/law/notices/101_crm_20100127.pdf (last accessed July 25, 2011)).

[…] a separate data access profile for each user permitted to access data stored in
the at least one data storage medium […]

wherein each data access profile includes information indicative of the degree of
access permitted by the user associated with the data access profile to data
stored in the at least one data storage medium;

wherein *each data access profile includes both a master data access profile and a
current data access profile for each user*;

wherein the master data access profile is modifiable by a super user but not a
normal user; and

wherein, if a first user is authenticated as a normal user, the current data access
profile is modifiable by the first user within parameters defined by the
master data access profile. (emphasis added)

Hearns does not teach that a separate data access profile for each user, wherein
each data access profile includes both a master data access profile and a current data access
profile. *See* Office Action, p. 5. The Office Action uses Wissenbach in an attempt to overcome
the deficiencies of Hearns:

"Wissenbach's teachings establishes [sic] that the concept of maintaining two types
of user profiles for a particular user was known at the time of applicant's original
filing date. Wissenbach's teachings disclose the use of a customize profile (e.g.,
current data access profile) or default profile (e.g., master access profile) for a
particular user." Office Action p. 5.

However, Wissenbach does not teach a separate data access profile for each user,
wherein each data access profile includes both a master data access profile and a current data
access profile. Instead, Wissenbach teaches a "storage master" or super user may generate a
customized profile (*see* [[0028]-[0032]]) and "[a]s an alternative to making a customized profile
for each user, the system may be programmed with a default profile for each type of user."
[[0033]] (emphasis added). Thus, Wissenbach teaches that each user has a user profile that is
either has a customized profile or the default profile for that type of user. The claim instead
requires that "a separate data access profile for each user […] each data access profile includes
both a master data access profile and a current data access profile for each user." Thus, the
combination of Hearns and Wissenbach does not teach or suggest all of the claim limitations.

The Office Action further notes that the combination of Hearns and Wissenbach
does not teach or suggest that "if a first user is authenticated as a normal user, the current data
access profile is modifiable by the first user within parameters defined by the master data access

profile."

Fong does not correct the deficiencies of Hearns and Wissenbach.

Fong does not teach or suggest access profiles for an access control system used for security purposes. Fong relates to a system which provides computer resources, such as computer hardware and software, to customers as needed. *See* [[0004]-[0007]]. Fong teaches a modifiable configuration profile related to the installation of the computer resource. A configuration profile is very different from an access profile. One relates to installation of software or hardware and the other relates to the user's security access to a system. Applicants submit that one of ordinary skill in the art would not consider a configuration profile used during installation of a computer resource when developing an access control system for the security of a computer system.

Fong does not teach or suggest that each profile includes both a master profile and a current profile. Fong teaches a single configuration profile where only some of the parameters are modifiable from a master template by the customer. *See* [0022].

While Fong teaches modifying certain parameters of the configuration profile within a master template, Fong does not teach or suggest that a normal user can necessarily modify the current configuration profile. Typically installation of computer resources is done by an IT administrator or someone with broad security access to the system. Here, during the first installation of the resource, an allocation request will specify any parameters of the configuration profile which the customer wants modified. [0022]. When the resource is reinstalled later by the same customer, a configuration record for the previous installation can be accessed to provide the values for the parameters of the configuration profile. [0022]. All of the modifications to the configuration profile from a default condition are done at installation. There is no teaching or suggestion in Fong that this profile can be modified later by a normal user. There is no teaching or suggestion from the combination of Hearns, Wissenbach and Fong that a normal user can modify a current access profile in an access control system.

For at least the reasons presented above, a *prima facie* case of obviousness has not been established. The rejection of independent claims 1, 11, 21 and 22 should be withdrawn and the claims should be allowed. Claims 2 and 4-10 depend from claim 1, and claims 12 and 14-20 depend from claim 11. The rejection of those claims should be withdrawn, and the claims should

be allowed.

Conclusion

Applicants assert that claims 1-2, 4-12 and 14-22 are in condition for allowance. Notice to that effect is respectfully requested.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: <u>August 2, 2011</u>

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